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ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS

Situation of human rights in Cambodia

Report of the Special Representative of the Secretary-General for human rights in Cambodia, Mr. Michael Kirby, submitted in accordance with Commission resolution 1994/61

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Introduction

1. The Centre for Human Rights was first mandated to establish on operational presence in Cambodia in February 1993 by resolution 1993/6 of the Commission on Human Rights, which was subsequently endorsed by the Economic and Social Council in July 1993 in resolution 1993/254 and by the General Assembly in resolution 48/154. Under those resolutions, an operational presence of the Centre for Human Rights in Cambodia was mandated:

(a) To manage the implementation of educational and technical assistance and advisory services programmes, and to ensure their continuation;

(b) To assist the Government of Cambodia established after the election, at its request, in meeting its obligations under the human rights instruments recently adhered to, including the preparation of reports to the relevant monitoring committees;

(c) To provide support to bona fide human rights groups in Cambodia;

(d) To contribute to the creation and/or strengthening of national institutions for the promotion and protection of human rights;

(e) To continue to assist with the drafting and implementation of legislation to promote and protect human rights;

(f) To continue to assist with the training of persons responsible for the administration of justice.

2. By the same resolutions, the Secretary-General was further called upon to assure the protection of the human rights of all people in Cambodia. Pursuant to Commission on Human Rights resolution 1993/6, Mr. Michael Kirby (Australia) was appointed on 23 November 1993 by the Secretary-General as his Special Representative for human rights in Cambodia, with the following mandate:

(a) To maintain contact with the Government and people of Cambodia;

(b) To guide and coordinate the United Nations human rights presence in Cambodia; and,

(c) To assist the Government in the promotion and protection of human rights.

3. The Special Representative reported to the Commission on Human Rights at its fiftieth session (E/CN.4/1994/73 and Add.1). The Commission subsequently adopted resolution 1994/61 approved by the Council in resolution 1994/259, in which it requested the Secretary-General to renew the mandate of the Special Representative and approved inter alia, the recommendations and conclusions of the Special Representative, in particular the priority areas requiring urgent action, namely the devotion of proper resources to hospitals, schools, courts and for the defence of cultural treasures, especially Angkor Wat; the support of the National Assembly Commission for the Protection of Human Rights and Reception of Complaints, including financial assistance for a proper secretariat, equipment and training; the enactment of laws and related

activities in specially urgent areas; the implementation of training programmes aimed at the promotion and protection of civil rights; the ensuring of true independence of the judiciary; particular attention to women and vulnerable groups. The Commission also expressed its grave concern at the indiscriminate use of land mines.

4. The Secretary-General submitted a report to the General Assembly containing the recommendations of the Special Representative and the role of the United Nations Centre for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights (A/49/635 and Add.1).

5. The present report is submitted in accordance with the decision by the Commission on Human Rights in its resolution 1994/61 (paras. 13 and 14) to review at its fifty-first session the respective programmes and mandates set out in its resolution 1993/6 and with its request to the Special Representative to report to the Commission at its fifty-first session.

I. ACTIVITIES OF THE UNITED NATIONS CENTRE FOR HUMAN RIGHTS IN CAMBODIA

A. Trust Fund for a Human Rights Education Programme in Cambodia

6. At the time of the preparation of the present report, US$ 923,697 had been received in the Trust Fund and US$ 250,000 had been pledged. Details of the activities concerning the Trust Fund can be found in the report of the Secretary-General (A/49/635/Add.1, paras. 3-9 and annex I).

B. Activities implemented in the period July 1994-November 1994

7. The activities implemented in Cambodia by the Centre for Human Rights in the period from February to July 1994 are mentioned in the report of the Secretary-General (A/49/635/Add.1, paras. 10-58), for the activities from October 1993 to January 1994, see E/CN.4/1994/73/Add.1, paragraphs 252-271. The activities implemented from July to November 1994 are described below. They are grouped according to the components of the programme of advisory services and technical assistance of the Centre for Human Rights.

8. A senior officer who has served with the Centre for Human Rights in Geneva for many years was appointed as Director of the Cambodia Office in July 1994 and assumed his functions on 23 September.

1. Legislative reform assistance

9. Through its office in Cambodia, the Centre for Human Rights has carried out the following activities in favour of the creation of a legal and institutional framework consistent with international human rights norms and for securing the promotion and protection of human rights and democracy.

10. Assistance has been provided to the National Assembly in general and to its various commissions, including the Commission on the Protection of Human Rights and Reception of Complaints, as well as to various concerned ministries, in the drafting and implementation of the following laws, including by the provision of comments.

11. Immigration Law. The Immigration Law was adopted by the National Assembly between 22 and 26 August 1994. The Centre for Human Rights had, at the request of the Royal Government and certain Commissions of the National Assembly, provided detailed and extensive comments on and suggested amendments to the draft law. The Centre for Human Rights also organized and/or participated in several meetings with local and international non-governmental organizations and concerned United Nations agencies such as the Office of the United Nations High Commissioner for Refugees (UNHCR). It was invited for official hearings on the draft law by the Commission on Interior and National Defence of the National Assembly. The Centre for Human Rights also participated in a public forum on the draft law with the acting Chair of the National Assembly, the UNHCR Chargé de Mission and a non-governmental organization. The Law, as adopted, reflects an attempt by the members of the National Assembly to comply with Cambodia's international human rights obligations. However, most of the changes suggested by the Centre for Human Rights as well as by UNHCR and local human rights organizations have not been included. The Co-Ministers of Interior have, however, given assurances during the debate in the National Assembly that the law would be implemented in a manner that is consistent with international human rights norms. The Co-Prime Ministers and other ministers and concerned officials had further given public assurances that this would be the case. The Centre for Human Rights has been approached recently by concerned officials at the Ministry of Interior for assistance in drafting subsidiary legislation under the Immigration Law. The Centre for Human Rights also continues to monitor the policies and practices relating to the ethnic minorities, including Vietnamese, and, where necessary, has communicated its concerns to the Government.

12. Nationality law. The lack of a nationality law has been noted in the comments offered by the Centre for Human Rights to the Government on the Immigration Law and has given rise to concerns within and outside Cambodia about the possibility of abuse in the implementation of the Immigration Law. Several meetings have been held between the Centre for Human Rights and concerned officials of the Ministry of Interior and the Council of Ministers on the issue of a nationality law. The passage of such a law is one of the recommendations made by the Special Representative in his reports to the Commission on Human Rights and to the General Assembly and has been agreed to by the Co-Ministers of Interior. The first draft of the nationality law has now been prepared by the Ministry of Interior and the Centre for Human Rights has been invited to assist in the revision of the draft to ensure conformity with the Constitution and international human rights norms. Such assistance is being provided in the form of comments and suggested amendments.

13. Press law. A draft press law was adopted by the Council of Ministers on 4 November 1994 and forwarded to the National Assembly on 28 November 1994. The draft contains many positive elements which had earlier been commented upon favourably by the Centre for Human Rights such as confidentiality of sources, prohibition of pre-publication censorship, privileges for publication

of public records and other materials, freedom of information, establishment of more than one press association, code of ethics for the press, prohibition of incitement, prevention of monopoly, right of individuals to confidentiality in legal proceedings, etc. The Centre for Human Rights had reviewed the draft in July 1994 and given its comments. The Government had accepted all of the Centre's concerns and the draft had been suitably amended. However, the draft that came out of the Council of Ministers on 4 November 1994 contains severe criminal penalties for defamation, allows suspension of publication by the Government, uses vague and undefined words on which criminal and civil penalties are based and removes appeal provisions. The Special Representative has written to the Government expressing his concerns about the draft law. Numerous discussions have been held with members of the Khmer and international press, officials of the Government, members of the National Assembly and human rights organizations. The Centre for Human Rights has prepared suggested amendments to the draft law, with comments, in consultation with the officials of the Government. The Centre for Human Rights will also hold further meetings with other interested persons and provide assistance to the Members of the National Assembly, at their request, in amending the draft law.

14. Law on the establishment of the Supreme Council of Magistracy. A revised version of the Government's earlier draft has been submitted to the National Assembly and is under consideration. The draft submitted earlier this year was returned by the National Assembly due to its incompatibility with the Constitution, with the advice that an appropriate draft law be prepared in consultation with the concerned members of the National Assembly. The current draft does not appear to have conformed to that advice and is essentially the same as the earlier draft, and thus if adopted would be constitutionally invalid. Several meetings have been held with members of the National Assembly and officials of the Ministry of Justice on the issues of constitutionality and the need to lay the foundations for ensuring the independence of the judiciary. In addition to the assistance given during the early part of 1994, at the request of several members of the National Assembly, particularly from the Commission on Protection of Human Rights and Reception of Complaints, the Centre for Human Rights has prepared detailed comments on the draft law with suggested amendments. It is expected that the draft law will be amended accordingly, adopted and the constitutional impediments removed. Consultations with Cambodian non-governmental organizations will be arranged with a view to coordinating their responses to the constitutional issues involved in this draft law.

15. Law on advocates and bar associations. The Centre for Human Rights has received a draft law on advocates and the establishment of a bar association, which is pending before the National Assembly. Several non-governmental organizations have requested the Office to arrange consultations on the draft law. Such consultations are being organized and comments and suggestions are being offered at the request of interested officials and other persons on the human rights implications of the draft. The comments by the Centre for Human Rights will be shared with the relevant ministries and the National Assembly at their request.

16. Prison rules. Several meetings have been held with concerned officials at the Ministry of Interior, including officials in charge of prisons and legislation, on the rules and regulations governing prisons. At present there are no detailed rules relating to the administration and management of prisons and the rights of prisoners. It has been agreed that a set of prison rules drafted earlier by officials at the Ministry of Interior should be revised to conform to Cambodia's international human rights obligations and to address the actual problems facing prisons and prisoners in Cambodia. The Centre for Human Rights was requested to provide assistance in the preparation of these draft prison rules. An outline has been prepared by the Office and is under discussion with the concerned officials. The draft rules may be implemented by the adoption of a law following a decision on the matter by the Co-Ministers of Interior. Consultations with concerned persons and human rights organizations have been planned as follow-up measures.

17. Women's code. The Centre for Human Rights continues to assist the Secretariat of State for Women's Affairs in the preparation of the women's code. Weekly meetings with an inter-ministerial committee specially set up for this purpose have been held regularly. Several non-governmental organizations have also attended. The Centre for Human Rights has prepared very detailed and substantial revisions of the code, a first draft of which had been prepared by a UNIFEM consultant at the beginning of 1994. The code is based on international human rights instruments, including conventions of the International Labour Organisation, as well as Cambodian laws and practice. Due to the increasingly crowded legislative agenda, the committee has been divided into several subcommittees, at the suggestion of the Centre for Human Rights. The review is nearing completion and the draft is expected to be submitted to the Council of Ministers at the beginning of 1995.

18. Law on the abolition of trafficking in children and prostitution. Cambodia is a party to the Convention on the Rights of the Child, the provisions of which have been given constitutional status under article 48 of the Constitution. Trafficking in and sale of children and the exploitation by prostitution of children have been on the increase in Cambodia, according to non-governmental organizations and other concerned persons with whom several meetings have been held by the Centre for Human Rights. The NGOs requested the Centre's assistance in preparing detailed suggestions for provisions criminalizing the sexual exploitation and abuse of children and the trafficking, abduction and sale of children. Under the existing Penal Code, there are no provisions allowing prosecutions to be launched for such offences. Therefore, the Centre for Human Rights has prepared suggestions to be included in a draft law on the abolition of trafficking in children and child prostitution. The suggestions have been shared with all concerned NGOs and with UNICEF, which has reviewed them and given its opinion. Following discussions, the revised suggestions would be presented by the NGOs to the concerned ministry or to interested members of the National Assembly who are concerned with the drafting of the new Penal Code.

19. Law on associations. The Commission on the Protection of Human Rights and Reception of Complaints has requested the Centre for Human Rights to prepare suggestions for a draft law on the rights and obligations of associations, including non-governmental organizations. The need to have a law on this subject arises from the lack of any legislation on the

registration, validity, rights and obligations of associations. The existing rules include a decision by the Supreme National Council (SNC) during the transitional period and several recent orders by the Ministry of Interior which have given rise to abuse of power by lower-level officials, a confusion about the rights and obligations of associations and an atmosphere of fear among NGOs. The Centre for Human Rights will prepare suggestions on this matter and initiate discussions with NGOs. After the Commission has discussed the suggestions and agreed upon a draft, the text may be presented to the National Assembly next year.

20. Other laws. In addition, the Centre for Human Rights has received several draft laws currently before the National Assembly and it has been requested to provide assistance in reviewing the texts, including a draft labour law and a draft statute of judges. The Centre for Human Rights has also been provided with advance copies of the draft code of civil procedure, a draft law on the declaration of assets, and a draft law on the establishment of an anti-corruption board. Due to limited time and resources, these drafts can be considered only at a later stage.

21. Conformity of the laws with international conventions. On 14 November, an official audience was given to the Director of the Cambodia Office of the Centre for Human Rights by the First Vice-President of the National Assembly. The Director explained the mandate given to the Centre for Human Rights in Cambodia by the General Assembly and the Commission on Human Rights with the support of the Government of Cambodia. He recalled that 15 international conventions in the field of human rights and humanitarian law had been ratified by Cambodia and should, in accordance with the Constitution and the international obligations of Cambodia and in particular pending the establishment of a constitutional council, be taken into consideration in the drafting of new laws. He officially offered the technical assistance of the Centre for Human Rights with the drafting of legislation to promote and protect human rights and the training in this respect of members of the National Assembly. In the discussion, reference was also made to allegations according to which some members of the Assembly had been threatened by their political party leaders to be expelled from the party, and thus to automatically lose their seats in the Assembly, if they did not follow the order of the party leaders; such action would be contrary to the freedom of expression enjoyed by every Cambodian citizen under article 41 of the Constitution.

2. Assistance in the development and strengthening of national institutions

22. Advice and assistance by the Centre for Human Rights is being provided to the Commission for the Protection of Human Rights and Reception of Complaints on its day-to-day functioning. In order to increase the capacity of the Commission to monitor the human rights situation in the country, funding has been provided under the Trust Fund to a non-governmental organization which will assist the Commission in investigating human rights violations. Funding has also been provided to another NGO for parliamentary support including educational and information activities. In a meeting with the Director of the Cambodia Office of the Centre, on 14 December, the Chairman and the Deputy Chairperson mentioned that the Commission needed financial assistance for a

secretariat that could deal with the complaints that the Commission received. The Director of the Cambodia Office underlined that the United Nations Commission on Human Rights, in paragraph 8 (b) of its resolution 1994/61, adopted on 4 March 1994, taking note of a recommendation made by the Special Representative, had identified as a priority area financial assistance for a proper secretariat, equipment and training of the National Assembly Commission for the Protection of Human Rights and Reception of Complaints. The Director explained that the funds received in the Trust Fund in 1994 did not yet permit the Centre to assist the Commission financially but that he had called paragraph 8 (b) of resolution 1994/61 to the attention of several donor Governments and agencies, at meetings held in Geneva, New York and Phnom Penh, and suggested that they assist the Commission in that respect, either through the Trust Fund or directly.

3. Administration of justice

23. The Centre for Human Rights has carried out a number of activities aimed at assisting Cambodia in establishing a system for the administration of justice consistent with international human rights norms.

24. A judicial training workshop was held at the Ministry of Justice from 17 to 19 August 1994; 35 trainee judges attended. Topics included human rights, criminal law and judicial independence. The Centre for Human Rights participated in the training of judges and trainee judges at the Ministry of Justice in September 1994. On 12 and 13 October, a seminar on the prosecution of military personnel was held; representatives from the Ministries of Defence and Justice, and military and civilian court members attended.

25. The Centre for Human Rights conducted a prison training course at T5 prison in Kompong Cham province from 18 to 21 July 1994 as the final phase of the Prison Assistance Programme (PAP). The PAP is a 12-month programme of research and training in Cambodian prisons. A comprehensive report on prison conditions will be produced by the Centre for Human Rights as a precursor to a major seminar on prison reform to be conducted in January 1995.

4. Treaty reporting and international obligations: training of government officials

26. Specific assistance is being provided by the Centre for Human Rights to the Government in the preparation of reports on the implementation of the United Nations Conventions in the field of human rights ratified by Cambodia which have to be submitted to the relevant treaty bodies. This specific assistance is being provided to the Inter-Ministerial Committee on Reporting which was established with the assistance of the Centre for Human Rights. The Committee had submitted to the Centre for Human Rights a project proposal for financial support with a request to consider this matter as a priority. The Centre has approved the proposal.

27. The Inter-Ministerial Committee on Reporting has decided to begin drafting reports under the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child. The Committee has established two subcommittees for this purpose.

28. On 7 September 1994, an information seminar for the members of the Subcommittee on Civil and Political Rights and of the Subcommittee on the Rights of the Child was organized by the Centre. The objectives of this seminar were to inform the members of the subcommittees about their role in the reporting process and to give some directions to help them start working. A briefing on the reporting process and materials were provided by the Centre and by UNICEF.

29. On 12 September 1994, the Minister of Justice, as Chairman of the Inter-Ministerial Committee, issued a letter requesting the members of the subcommittees to start working on the reports. The subcommittees now meet regularly at the Ministry of Foreign Affairs.

30. The members of the Subcommittee on Civil and Political Rights have begun gathering information and documentation. At the beginning of December 1994, they had drafted comments on 20 articles of the International Covenant on Civil and Political Rights. They have not yet received materials, equipment or funds necessary for their work. The Centre for Human Rights is providing them with daily advisory assistance, as well as with documents and relevant information, and will soon be able to provide the Subcommittee with financial support. Particular attention has been devoted to advising the members of the Subcommittee on article 4 (non-derogable rights and states of emergency) and 6 (right to life).

31. UNICEF, in collaboration with the Centre for Human Rights, is assisting the Subcommittee on the Rights of the Child. At the beginning of December 1994, the Subcommittee has begun drafting the first five parts of the report. UNICEF has provided the Subcommittee on the Rights of the Child with the regular advisory assistance of a consultant, as well as with some funding for secretarial, material and other expenses.

32. Non-governmental organizations have also been able to cooperate with the members of the subcommittees. A non-governmental Committee for the Rights of the Child has been created to cooperate with the Subcommittee in the reporting process. Human rights NGOs have been briefed on Cambodia's reporting obligations and on the work of the Inter-Ministerial Committee on Reporting. They have already started to cooperate with the members of the Subcommittee on Civil and Political Rights by providing them with their comments on articles 6 and 7 of the Covenant. Members of this Subcommittee met with human rights NGOs at the Centre for Human Rights and discussed with them their needs and difficulties.

33. It was expected that the first drafts of the reports under the International Covenant on Civil and Political Rights (ratified on 26 May 1992; initial report due on 25 August 1993) and the Convention on the Rights of the Child (ratified on 15 October 1992; initial report due on 13 November 1994) would be completed in December 1994. A final version should be available at the beginning of 1995. After submission of these reports to the relevant committees work will begin on the four other reports to be submitted by Cambodia under the International Covenant on Economic, Social and Cultural Rights (ratified on 26 May 1992; initial report due on 30 June 1994), the International Convention on the Elimination of All Forms of Racial Discrimination (ratified on 28 November 1983; initial report due on

28 December 1984; periodic reports due on 28 December 1986, 1988, 1990, 1992), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (ratified on 15 October 1992; initial report due on 13 November 1993) and the Convention on the Elimination of All Forms of Discrimination against Women (ratified on 15 October 1992; initial report due on 14 November 1993).

5. Curriculum development and education for human rights, and training of teachers and curriculum developers

34. A representative of the Centre for Human Rights gave lectures on the rights of the child and women's rights to school directors on 13 and 14 July 1994. A workshop was held at the Faculty of Law from 29 August to 2 September 1994 for students being trained to become lawyers. Workshops on international human rights conventions were conducted for law school teachers during the months of October and November 1994. Lectures on the definition of human rights, international human rights standards and the Cambodian Constitution and the recognition of human rights were held for law students of the Law Faculty of the University of Phnom Penh on 26 October, 16 and 30 November. On 14 December another lecture was to be held on the international protection of human rights. Further lectures at the Law Faculty are being scheduled for 1995.

35. Seminars and Workshops were conducted for a number of organizations and institutions. Workshops were conducted for Khmer and ethnic Vietnamese school parents on rights to equality and education and minority rights in Kandal province in October and November 1994. A seminar on international human rights law was conducted for the Royal School of Administration from 8 to 12 August 1994. Those attending this seminar were civil servants from different ministries. The Office also lectured on the Constitution of Cambodia to members of different ministries at the Cambodian Institute for Human Rights on six occasions. A lecture on press law and freedom of expression was delivered at the Ministry of Information in a seminar organized by the Khmer Women's Voice Centre (KWVC) in October 1994.

36. Education and training activities are undergoing continuous development. The following is a list of human rights topics where a curriculum has been recently established: human rights and criminal law; United Nations human rights mechanisms; the role of human rights non-governmental organizations; documenting and reporting on human rights violations; the rights of the child; and the prosecution of military personnel.

37. Additional or follow-up projects are being developed in the following areas: seminar on the process of prosecuting of military personnel; seminar on minority rights; NGO training on monitoring and investigation; press relations workshop for non-governmental organizations; upgrading the UNTAC Level "C" teaching curriculum; and a seminar for the Royal School of Administration.

38. At the invitation of the Ministry of Interior the Centre for Human Rights is preparing a draft model teaching programme for use by NGOs undertaking human rights training programmes with police. This should improve the delivery and consistency of such courses.

6. Support to non-governmental organizations and civil society

39. There are more than 30 local NGOs in Cambodia that engage in human rights work. All of these have been formed since late 1991. Several of these groups are mass membership groups with thousands of members and with offices in the provinces. Most are small, under-funded and dependent upon volunteer workers. These NGOs do not limit their work to civil and political rights but combine this with a concern for economic, social and cultural rights. Thus some of these organizations are involved in small-scale development projects in addition to training, advocacy and monitoring.

40. The Centre for Human Rights has focused its assistance primarily on providing educational programmes, advice and consultative services to these groups. Lectures have been presented on several occasions for members of different NGOs including on the Constitution of Cambodia. The Centre for Human Rights lectured on the United Nations mechanisms in promoting human rights to the staff of ADHOC, a large human rights NGO, on 25 July 1994. At the Khmer Institute for Democracy (KID), the Centre for Human Rights reviewed the Constitution with the Vietnamese Association on 18 August 1994. Also at KID, the Centre for Human Rights gave a lecture on human rights and democracy to the Rural Development and Democracy Association on 15 September 1994. On 17 and 18 October, staff of the Office spoke at a seminar organized by the Khmer Women's Voice Centre on the subjects of international conventions protecting freedom of the press, United Nations conventions relating to the status of women and the draft press law. Much of the work in these areas is informal, depending upon small group meetings often discussing day-to-day concerns and issues. In addition to weekly meetings on Fridays where NGOs share their concerns, they report on cases of human rights violations and try to find ways to cooperate with each other. The following meetings have been particularly noteworthy:

(a) Meetings with the Special Representative during his third mission to Cambodia (16-29 July);

(b) General briefing by human rights NGOs and specialized NGOs (women, elderly, Khmer Kampuchea Krom and religious groups) with both the Special Representative and the High Commissioner for Human Rights on 24 July 1994;

(c) Briefing on the draft press law and on the state of freedom of expression in Cambodia was given to the Special Representative by NGOs on 18 November 1994;

(d) Regular meetings with the Vietnamese Association have begun, as human rights against ethnic Vietnamese have continued;

(e) Meetings on the creation of a mechanism to deal with human rights violations: NGOs (VIGILANCE, KNG, ASKKK, ADHOC, LICADHO, INDRADEVI) agreed on the establishment of an "Action Committee" to address urgent human rights abuses. The Committee meets whenever it receives information about serious violations and also on a regular basis twice a month at the offices of these organizations in rotation. The Action Committee is already very active and is carrying out several investigations into alleged human rights violations. The Khmer Institute for Democracy (KID) joined the Committee on 13 September 1994;

(f) Meetings with NGOs working in the field of legal representation: discussions were initiated on fees and professional ethics because of the perceived problems arising in this area and the consequent damage it might be doing to the human rights movement; the interested NGOs agreed not to take fees in criminal matters until a set of rules and ethical standards were adopted; a statement regarding this matter has been forwarded to the Ministry of Justice for further distribution throughout the judicial system; the concerned NGOs are now drafting rules of ethics for defenders;

(g) There have been a series of meetings with NGOs and UNICEF dealing with issues affecting children, especially trafficking and prostitution; suggestions for a draft law on child prostitution and trafficking are now being discussed among concerned organizations and a text will be presented to several members of the National Assembly and the Ministry of Justice for consideration;

(h) Cambodian human rights NGOs also met with international human rights NGOs (Japan Civil Liberty Union and Amnesty International) at the Cambodia Office of the Centre for Human Rights to both brief these groups on the Cambodian human rights situation and share information.

41. Non-governmental organizations discussed and issued statements of concern regarding, in particular, the Law Outlawing the "Democratic Kampuchea" Group (DK Law), the secret prisons, the killing of a journalist, the hostage crisis and the draft press law. Non-governmental organizations, especially those that comprise the Action Committee, received warnings from the Government after the Committee issued a press statement on the killing of Nuon Chan, editor of Voice of the Khmer Youth newspaper. The Centre for Human Rights has advised and held meetings with the NGOs in relation to these matters.

42. There is increasing concern over some recent instructions issued by the Ministry of Interior relating to freedom of association. Non-governmental organizations reported that in some provinces they have had to seek authorization to provide human rights training and to report on their activities. In several areas they have been instructed to reveal membership details and other sensitive information to local authorities. The Office held several meetings with NGOs on this issue in order to get more precise information about the Ministry of Interior's instructions and their interpretation by the local authorities in the provinces. NGOs felt confused and are concerned that these instructions could serve as a pretext to shut them down. The Special Representative has recommended to the Government to withdraw these directives. This issue is being closely followed up by the Centre for Human Rights. On 16 November, a meeting was held with the head of the Department of Organizations and his immediate superior at the Ministry of Interior to ascertain their present position with regard to the directives issued. These officials seemed unaware of the directives or the impact they were having. Their position seemed to be that they require the registration of NGOs but, at the moment, they were not enforcing this. The Centre for Human Rights agreed to provide them with a position paper on the matter and offered its assistance, at their request, for the drafting of a law on associations.

43. The Centre for Human Rights has regularly attended meetings of the Action Committee, the Cambodian Coordination Human Rights Committee and the Human Rights Task Force. The Office also receives regular reports from NGOs. The Centre provides direct financial support to both Cambodian and international NGOs working in the country. The Centre has financed 13 projects in various areas, including human rights education, training, production of information materials, and protection of minorities. Fourteen additional projects have been selected and grants are currently being disbursed.

7. Information and documentation

44. The production, translation and distribution of information materials on human rights is an important aspect of the work of the Centre for Human Rights. From July through November 1994, the Centre has distributed United Nations human rights materials in Khmer, French and English to many NGOs and institutions. These materials have included: the Universal Declaration of Human Rights; the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the Convention on the Elimination of All Forms of Discrimination Against Women; the Convention on the Rights of the Child; the International Convention on the Elimination of All Forms of Racial Discrimination; reports of the Centre for Human Rights and the Special Representative; etc.

45. Recipients of these materials have included, among others, nine Khmer human rights NGOs; four international NGOs; the Ministries of Interior, Defence and Justice; the Royal School of Administration; the Secretariat for Women's Affairs, the Khmer Women's Voice Centre; the Law Faculty of Phnom Penh University; prison officials; school parents and teachers.

46. The Centre for Human Rights continues to operate a small resource library and a video viewing room on the premises of the Cambodia Office, which are in frequent use.

47. A monthly newsletter of the Cambodia Office of the Centre for Human Rights, containing information on the activities of the Office, is under development.

48. At the request of the Department of Legislation, a set of human rights documents has been given to facilitate better acquaintance with human rights law while the drafting of subsidiary and other legislation is carried out.

8. Other activities

49. The Centre for Human Rights continues to monitor the proceedings of the Phnom Penh Municipal Court and visit the prisons in Phnom Penh. The Centre for Human Rights also continues to monitor the implementation of legislation with a view to assisting the Government, according to its mandate. The Centre for Human Rights also conducted an assessment of the legal status of the ethnic Vietnamese near the Tonle Sap lake in Kompong Chhnang province. Several meetings have been held with the officials of the Departments of Legislation and Scientific Investigation of the Ministry of Interior for the purpose of designing training and other assistance programmes through the UNDP and other donors.

50. Several meetings were held with bilateral and multilateral agencies including donors such as SIDA (Sweden), USAID (United States), CIDA (Canada), AIDAB (Australia), the World Bank, Asia Foundation, Canada Fund and members of the diplomatic corps. These meetings had as their purpose the coordination of funding and other activities in the area of assistance to national institutions, including legal structures and capacity building. The World Bank representatives have expressed interest in projects involving land issues, the judiciary and legal documentation. CIDA and AIDAB have expressed interest in projects involving land issues as well as several small projects involving capacity building in forensics, police training and institutional assistance. The Asia Foundation has expressed interest in coordinating with the Cambodia Office its project on the establishment of a legal research and documentation centre at the National Assembly. The Canada Fund has expressed particular interest in a number of training initiatives.

51. The Centre for Human Rights has been working closely with UNDP in drafting the project document for UNDP subsector "Governance, Democracy and Human Rights". The first draft has been prepared and is under discussion. It is expected that human rights projects to the total amount of approximately US$ 2 million will be funded by the UNDP in this way. The Centre for Human Rights has also helped prepare a project of the United Nations Volunteers for assistance in the training of local NGOs.

52. The Centre for Human Rights has enjoyed close cooperation with the Australian Embassy in Phnom Penh, which has provided direct financial assistance, and with the International Committee of the Red Cross to work towards the rehabilitation of prisons in the Phnom Penh area. It is expected that this collaboration will continue and be expanded to include prisons across the country. The Centre for Human Rights has completed a survey of Cambodian prisons and will be issuing a report, with recommendations for reform, in the near future.

II. FOURTH VISIT OF THE SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL FOR HUMAN RIGHTS IN CAMBODIA

(16-18 November 1994)

53. The Centre for Human Rights provides continuing assistance to the Special Representative, Mr. Michael Kirby. From 16 to 18 November 1994, the Special Representative made his fourth visit to Cambodia on his way to New York to present to the General Assembly his recommendations to the Government of Cambodia (A/49/635). The purpose of the visit was to take stock of the most recent developments concerning the human rights situation in the country since July 1994. The visit also provided him with an opportunity to discuss several issues of concern with the Royal Government and invite its views and comments in relation to the Secretary-General's report to be submitted to the General Assembly (for the programme of the visit, see annex).

54. During this visit, the Special Representative was granted an audience with the First Prime Minister. He also met with the newly appointed Minister of Foreign Affairs and International Cooperation, the Minister of Justice, the Minister of Information and the Co-Interior Minister.

55. With the First Prime Minister, the Special Representative discussed the general human rights situation and commended the Government for its efforts towards the restoration of a rule of law and better administration of justice, in the face of continued warfare with the Khmer Rouge and political instability. He noted the progress realized in the conditions of persons subjected to any form of detention or imprisonment. He expressed concern at the recent restrictions put on freedom of expression. In particular, the draft press law was discussed and concern was expressed regarding the sections of the law providing for criminal sanctions, including imprisonment. The First Prime Minister reiterated his respect of human rights and freedom of expression, but stressed that insult was not acceptable according to Cambodian customs, and that it was worse than defamation. He explained that a strong law was needed to protect journalists from threats to their life because of abuse of freedom of expression. In this regard the First Prime Minister stressed the need for a concerted educational effort to improve the professional skills and ethics of Cambodian journalists. He also drew the Special Representative's attention to the serious risks of food shortage in the course of 1995 due to a succession of dramatic floods and drought in several parts of the country.

56. The visit provided an opportunity for the Minister of Foreign Affairs and International Cooperation to comment in detail and discuss with the Special Representative his recommendations on the human rights situation in Cambodia and an opportunity to comment on the Special Representative's recommendations.

57. With the Minister of Justice, the Special Representative discussed the progress in the work of the two inter-ministerial subcommittees, placed under the supervision of the Minister, in charge of preparing the first reports of Cambodia under the International Covenant on Civil and Political Rights (the work of the relevant subcommittee is assisted permanently by a member of the staff of the Centre for Human Rights) and the Convention on the Rights of the Child (the work of the relevant subcommittee is assisted permanently by a consultant of UNICEF and, when possible, by a member of the staff of the Centre for Human Rights); the need for financial support to the subcommittees' permanent secretariat; the draft law on the Supreme Council of Magistracy; the draft law on the statute of lawyers and the usefulness for judges to continue to benefit from the services provided to plaintiffs by the human rights organizations through their "human rights defenders"; the role of the Ministry with regard to the military court and the control on the implementation of prison legislation by the officials of the Ministry of Interior.

58. Issues discussed with the Government focused on the new version of the draft press law soon to be adopted by the National Assembly and the increasing number of instances of pressure, intimidation, threats and acts of violence against journalists, newspapers and human rights organizations. Cases discussed included, among others: the assassination of Mr. Noun Chan, the editor of Samlaeng Yuveachoun Khmaer (Voice of the Khmer People); threats made to two Cambodian human rights organizations which had expressed concern about and called for a prompt and public investigation into the murder of editor Noun Chan; the administrative closure of the newspaper Uddom Kete Khmaer; the suppression of the Khmer Institute of Democracy's television programme, "The Public's Opinion", which was to feature the recently dismissed Minister of Finance and Economy.

59. The Special Representative also discussed the long-standing issue of the illegal activities carried out by military personnel in Battambang province and elsewhere. The question of the protection of the Centre for Human Rights staff within the context of the continuation of its work in Cambodia was raised with the Royal Government. Discussion of this issue with the Government followed the abduction and gunshot injury inflicted on Monica Oliveros, the five-year-old daughter of one of the officers of the Cambodia Office of the Centre for Human Rights.

60. He had a working session on the new version of the draft press law with Cambodian journalists, human rights organizations, foreign press and legal experts. The Special Representative also met the editor of the newspaper Uddom Kete Khmaer (Khmer Ideal) who had written to him following the administrative closure of his newspaper. He also visited Phnom Penh's PJ (Police Judiciaire) prison to observe and commend the notable improvements in the condition of detention of the detainees due to a generous contribution by the Government of Australia.

61. In order to effectively carry out its mandate and to assist the Special Representative, the Centre for Human Rights closely follows human rights developments in the country, both directly and through its contacts with NGOs. For example, in following the development of the draft press law and attacks or threats to journalists, close contacts are being maintained with the Khmer Journalists Association (KJA) and several Khmer newspapers.

62. At the time of preparing this report, the Centre for Human Rights is following the case of the assassination of another journalist of the newspaper Koh Santapheap (Island of Peace). Chan Dara was gunned down on 8 December in the province of Kompong Cham, apparently because of series of articles he wrote in this and another newspaper.

63. In order to prepare the fifth visit of the Special Representative in January 1995, which will emphasize the right to health and in particular the question of HIV/AIDS, the Centre for Human Rights has enjoyed very close cooperation with the representation in Cambodia of the World Health Organization.

64. This visit provided an opportunity to update the Special Representative's recommendations to the General Assembly when orally introducing the report.

III. REMARKS

65. The activities described above are the result of the efforts deployed by the Centre for Human Rights, despite the many administrative and financial problems which have characterized the operation of its Cambodia Office since its beginning. These problems have hampered, up to the time of the preparation of the present report, the full realization of the programme of activities of the Centre and the potential impact of the Centre's activities in Cambodia.

66. A principal cause of these problems has been the insufficiency (both in terms of resources allocated and time) of budgets approved by the General Assembly, at the recommendation of the Advisory Committee on

Administrative and Budgetary Questions (ACABQ). In each case, the funds allocated and/or the duration of time of approved budgets have been grossly inadequate.

67. In order to meet the request of the Commission on Human Rights that an operational presence of the Centre for Human Rights be established after the expiry of the mandate of UNTAC and in order to ensure a smooth transition from UNTAC to the Centre for Human Rights, with no disruption in the implementation of human rights activities in Cambodia, it was necessary for the Centre to establish its office at Phnom Penh on 1 October 1993, immediately after the departure of UNTAC at the end of September 1993.

68. The mandate of the Centre for Human Rights in Cambodia was a new one, and no resources had been appropriated for its implementation in the biennium 1992-1993. Furthermore, the Centre was not in a position to meet the financial requirements entailed by this new mandate within its existing financial resources. Therefore, pending the approval by the General Assembly at the end of 1993 of the United Nations regular budget for the biennium 1994-1995, the Centre requested the ACABQ in August 1993 to authorize the expenditure of the resources necessary for the implementation in 1993 of the Centre's mandate in Cambodia. The budget necessary to implement the mandate entrusted to the Centre for Human Rights by Commission resolution 1993/6 was estimated by the Centre at $661,750 for five months. This would cover the salaries of the local and international staff, general expenses for the operation of the Cambodia Office and travel of the Special Representative.

69. In September 1993, the ACABQ authorized the Centre to incur expenditure only up to $288,000 for the period October to December 1993. This represented a deficit vis-à-vis estimated requirements of over $36,000 per month.

70. In November 1993, the Centre submitted, through the Office of Programme Planning, Budget and Finance, for approval by the General Assembly at its forty-eighth session, a budget for the entire biennium 1994-1995 in the amount of $2,781,000. However, in December 1993, the ACABQ authorized, pending the submission of a report on the continued human rights presence in Cambodia, a budget covering only the first six months of 1994 in the amount of US$ 550,000.

71. In May 1994, the Centre submitted to the General Assembly a report on the "Continued United Nations human rights presence in Cambodia" (A/C.5/48/78). In that report, the Centre requested a budget of $2,384,100 for the period 1994-1995, that is $1,834,100 in addition to the $550,000 approved by the ACABQ in December 1993.

72. In June 1994, the ACABQ recommended to the General Assembly that only an amount of $1,500,000, inclusive of the $550,000 already approved, be approved for the financing of human rights activities in Cambodia. In other words, the ACABQ recommended a budget corresponding to less than 54 per cent of the budget estimated by the Centre for Human Rights to be necessary for the operation of the Cambodia Office. Nevertheless, on 15 July 1994, the

General Assembly authorized the Secretary-General to enter into additional commitments of up to $1,834,100 for the biennium 1994-1995 for the financing of human rights activities in Cambodia, thus approving the entire budget requested by the Centre.

73. The approval, until July 1994, of successive limited operational budgets prevented the smooth operation of the Cambodia Office, effectively rendering long-term planning impossible. As a result, it was neither possible to provide international staff with contracts of a length corresponding to that of the mandate of the Centre in Cambodia, nor to provide local staff with proper conditions of employment. The approval in July 1994 of a longer term and more sufficiently resourced budget for the operation of the Cambodia Office should facilitate the solution of most of the above-mentioned problems. Additionally, administrative and financial procedures more suitable to the management of a field office have been established in cooperation with the relevant Secretariat services. These will need to be continually monitored and evaluated to continue to improve the administration of the Cambodia Office. The Director of the Cambodia Office was formally appointed in August 1994. These developments will contribute to the overcoming of management difficulties.

74. The intentional shooting of the young child of the Administrative Officer of the Cambodia Office on 8 September 1994 has caused a temporary vacancy in this post due to the incumbent's decision to leave Cambodia. The Chief of the Legal Assistance Unit resigned at the end of October 1994 and his post also remains to be filled. The same applies to the post of an internationally recruited part-time secretary and a part-time administrative assistant in charge of the local personnel contracts and administrative questions.

Annex

PROGRAMME OF THE VISIT OF THE SPECIAL REPRESENTATIVE
FOR HUMAN RIGHTS IN CAMBODIA, 16-18 NOVEMBER 1994

Wednesday, 16 November 1994

12.15 Arrival at Pochentong (Phnom Penh) Airport

13.00 Lunch with the staff of the Cambodia Office

15.00 Audience with Minister of Justice, H.E. Chem Snguon

Venue: Ministry of Justice

17.00 Audience with First Prime Minister, Prince Norodom Ranariddh

Venue: First Prime Minister's residence

19:30 Dinner with Information Minister, H.E. Ieng Mouly

Thursday, 17 November 1994

8.00 Working group on the draft press law with
Legal Advisor to the National Assembly Human Rights Commission,
Press/Media Adviser to the Royal Government, UNESCO, ADHOC, LICADHO,
Task Force, Vigilance, Amnesty International, KID

Venue: Office of the Centre for Human Rights

10.00 Audience with Minister of Foreign Affairs, H.E. Ung Huot

Venue: Ministry of Foreign Affairs

Lunch Offered by the Ministry of Foreign Affairs, in presence of the Minister of Foreign Affairs, the Secretary-General of the Ministry of Foreign Affairs, the Ambassador of Australia to Cambodia, the Minister of Justice and the Minister of Information

14.00 Briefing by the staff of the Cambodian Office of the Centre for Human Rights

Friday, 18 November 1994

7.00 Visit of PJ prison in Phnom Penh with Australian Ambassador and in presence of the press

13.15 Departure for New York from Pochentong Airport